

CITY COUNCIL AGENDA

FEBRUARY 8, 2005

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
VACANT
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:32 a.m. - Closed Session, Room 600, City Hall
Absent – Council Members: None.

1:38 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: None.
- **Invocation (District 2)**
Valley Christian High School
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

1 CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Landmark Protection for its important contribution to the San José economy. (Mayor/Reed)
(Rules Committee referral 2/2/05)
Mayor Gonzales and Council Member Reed presented a commendation to Dan Miranda of Landmark Protection for its important contribution to the San José economy. Mr. Miranda thanked the Mayor and Council for the commendation and to the employees of Landmark Protection for their hard work and efforts in earning this commendation.

2 CONSENT CALENDAR

- 2.1 Approval of Minutes.**
(a) Regular Minutes of November 16, 2004
[Deferred from 1/25/05 – Item 2.1(i)]
Approved.

2 CONSENT CALENDAR

2.2 Final adoption of ordinances.

- (a) ORD. NO. 27339 – Amending Section 2.08.1630 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise the eligibility requirements for members of the Elections Commission, and amending Section 12.04.085 of Chapter 12.04 of Title 12 of the San José Municipal Code to provide the Chair of the Elections Commission with subpoena power.

Ordinance No. 27339 adopted.

- (b) ORD. NO. 27340 – Providing authorization to conduct and take actions with regard to the holding of an election to fill a vacancy in the office of Council Member, District 7.

Ordinance No. 27340 adopted.

- (c) ORD. NO. 27341 – Amending Part 4 of Chapter 17.12 of Title 17 of the San José Municipal Code to add a new Section 17.12.445 to establish Public Safety Radio coverage requirements for certain large buildings exceeding fifty thousand square feet, basements exceeding ten thousand square feet, high rise buildings, buildings with two or more stories underground and tunnels over five hundred feet in length, and to require the installation of firefighter breathing air systems in high rise buildings, buildings with two or more stories underground, tunnels over five hundred feet in length, and buildings and structures with remote fire apparatus access.

Ordinance No. 27341 adopted.

- (d) ORD. NO. 27343 – Rezoning certain real property situated at the southwest corner of Jackson Avenue and McKee road to A(PD) Planned Development Zoning District. PDC03-093

Deferred to 2/15/05.

- (e) ORD. NO. 27344 – Rezoning certain real property situated at the southeast corner of North 15th Street and Vestal Street to A(PD) Planned Development Zoning District. PDC04-044

Ordinance No. 27344 adopted.

- (f) ORD. NO. 27345 - Rezoning certain real property situated on the west side of Stockton Avenue, approximately 50 feet southerly of Villa Street to R-1-8 Residence Zoning District. C04-107

Ordinance No. 27345 adopted.

- (g) ORD. NO. 27346 – Prezoning certain real property situated on the east side of Page Street, approximately 460 feet northerly of Chiechi Avenue, to R-M Multiple Residence Zoning District. C04-113

Ordinance No. 27346 adopted.

2 CONSENT CALENDAR

2.3 Approval of actions for the Santa Clara Valley Urban Runoff Pollution Prevention Program.

Recommendation:

- (a) Adoption of a resolution:
 - (1) Authorizing the City Manager to execute an Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program; continuing the authority of the Director of Environmental Services to designate a City representative to serve on the Program Management Committee; and authorizing the City's participator an application for re-issuance of the Program National Pollutant Discharge Elimination System (NPDES) permit.
 - (2) Authorizing the Director of Environmental Services to:
 - (a) Negotiate with Program co-permittees on a Second Amendment to the cost-sharing formula of the Program Memorandum of Agreement (MOA), to be effective July 1, 2005, if the Santa Clara Valley Water District (Water District) approves the MOA First Amendment, and
 - (b) Negotiate a separate MOA with the remaining thirteen co-permittees, if the Water District does not approve the MOA First Amendment.

Resolution No. 72520 adopted.

- (b) Direction to staff to return to Council on or before March 1 with a recommendation for continuation of the Program beyond March 10, 2005, if the Water District does not approve the MOA Amendment.

CEQA: Not a Project. (Environmental Services)

(Deferred from 1/25/05 – Item 2.8)

Approved.

2.4 Acceptance of the report on the establishment of a funding program for energy projects in City Buildings.

Recommendation: Acceptance of the report on the establishment of a funding program for energy projects in City Buildings. CEQA: Not a Project. (Environmental Services)
(Deferred from 1/25/05 – Item 2.7)

The report was accepted.

Staff requested to return to Council in two to three weeks with a proposed methodology as to how to implement revolving fund program to accompany the related corresponding appropriation action.

2 CONSENT CALENDAR

2.5 Approval of amendment to agreement for Elections Commission evaluator services.

Recommendation: Adoption of a resolution authorizing the City Attorney to negotiate and execute a Sixth Amendment to the Agreement with Hanson, Bridgett, Marcus, Rudy, LLP, to increase the maximum amount of compensation to provide investigation services as the Evaluator to the San José Elections Commission by an additional \$30,000, to a total amount not to exceed \$230,000. (City Attorney's Office/City Clerk)

Resolution No. 72521 adopted.

2.6 Approval of actions for Purchase and Sale Agreements for the proposed Oakland Road Street Widening Project.

Recommendation:

- (a) Approval of Purchase and Sale Agreements and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete these transactions with:
 - (1) William E. Shelton and Betty A. Shelton, in the amount of \$220,737 for:
 - (a) Fee title to a portion of 1996 Oakland Road (APN: 244-22-015); and,
 - (b) Twelve-month temporary construction easement on an adjoining portion of the property, in the area of the proposed Oakland Road street widening project; and,
 - (2) Jay M. Steuer and Linda L. Steuer, in the amount of \$172,147 for:
 - (a) Fee title to a portion of 2050 and 2114 Oakland Road (APN: 244-22-019 & 020);
 - (b) Twelve-month temporary construction easement on an adjoining portion of the property; and
 - (c) Payment for reconnecting to the sanitary sewer, in the area of the proposed Oakland Road street widening project.

CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works)
- (b) Approval of Purchase and Sale Agreements and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete these transactions with:
 - (1) Dorothy Sunseri and Mae E. LaMantia, in the amount of \$125,000 for:
 - (a) Fee title to a portion of 1290 Oakland Road (APN: 241-12-001), in the area of the proposed Oakland Road street widening project; and,
 - (2) Richard Morales and Beatrice Morales, in the amount of \$119,431 for:
 - (a) Fee title to a portion of 1954 Oakland Road (APN: 244-22-011);
 - (b) Twelve-month temporary construction easement on an adjoining portion of the property; and
 - (c) Payment for reconnecting to the sanitary sewer, in the area of the proposed Oakland Road street widening project.

CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works)

Resolution No. 72522 adopted. (Authorizing both action items).

2 CONSENT CALENDAR

2.7 Approval of an agreement for the purchase of an easement on a property located on the south side of Dobern Avenue.

Recommendation:

- (a) Approval of an agreement with Hans P. Hager for the purchase of an easement on and over the property located on the south side of Dobern Avenue approximately 85' west of Penrod Place, in the amount of \$40,250; and

Approved.

- (b) Adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete the transaction.

CEQA: Negative Declaration and addenda thereto, PP03-11-352. Council District 5.

SNI: East Valley/680. (Public Works)

Resolution No. 72523 adopted.

2.8 Approval of actions for the HP Pavilion.

Recommendation:

- (a) Approval to use the HP Pavilion at San José for a Community Event date, at a 50% of program funding level that is not to exceed \$20,000, for the Asian Tsunami Vigil on February 20, 2005. CEQA: Not a Project. (San José Arena Authority/Economic Development)

Approved.

- (b) Acceptance of the Arena Authority's Annual Report for Fiscal Year 2003-2004.

CEQA: Not a Project. (San José Arena Authority/Economic Development)

(Deferred from 2/1/05 – Item 5.3)

The report was accepted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

None.

3.2 Report of the Rules Committee – January 26, 2005

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting

- (b) City Council

- (1) Review February 8, 2005 Council Agenda

The Committee recommended approval of the February 8, 2005 City Council Agenda.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – January 26, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

(b) City Council

(2) Add New Items to February 1, 2005 Amended Agenda

The Committee recommended six additions to the February 1, 2005 City Council agenda.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's report.

(c) Legislative Update

(1) State

There were none.

(2) Federal

There were none.

(d) Meeting Schedules

The Committee recommended approval to Schedule a City Council Study Session on updates to North San José, Downtown and Transportation Impact policies on February 14, 2005 from 1:00 p.m. – 5:00 p.m.

(e) The Public Record

There were none.

(f) Appointments to Boards, Commissions and Committees

There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Approve Council Committee Workplan

(a) All Children Achieve

Deferred to the Rules Committee of February 2, 2005.

(2) Approval of Travel by Council Member LeZotte to Los Angeles, CA on January 21, 2004, to attend the California League of Cities Transportation, Communication & Public Works Committee Meeting

The Committee recommended approval of the travel and use of the Mayor/Council Travel Fund.

(3) Report from Council Member Williams on his trip to Barcelona, Spain

The Committee noted and filed the report.

(h) Oral Communications – **There were none.**

(i) Adjournment

The meeting adjourned at 2:18 p.m.

3 STRATEGIC SUPPORT SERVICES

3.2 Rules/Agency Rules Committee (Partial) – February 2, 2005

Vice Mayor Chavez, Chair

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Approve Council Committee Workplan

a. All Children Achieve

The Committee recommended approval of the All Children Achieve workplan for the period January through June 2005 and setting its meeting schedule on the second Thursday of each month at 1:30 p.m. in Room 204.

The Rules Committee Report and Actions of January 26, 2005 and Partial Report and Actions of February 2, 2005 were accepted.

3.3 Report of the Making Government Work Better Committee

Council Member Reed, Chair

None.

3.4 Acceptance of the Team San Jose Progress Report.

Recommendation: Acceptance of the Team San Jose Progress Report providing an update on the progress of the Team San Jose operations of the Convention Center and Cultural Facilities for the first six months of management. (City Manager's Office)

The report was accepted.

3.5 Approval of the 2004-2005 Mid-Year Budget Review Report.

Recommendation:

(a) Approval of the 2004-2005 Mid-Year Budget Review.

Approved.

(b) Adoption of related appropriation ordinance and funding sources resolution amendments for the 2004-2005 Mid-Year Budget Review.

Ordinance No. 27350 adopted.

Resolution No. 72524 adopted.

(c) Elimination of 3 positions as detailed in the 2004-2005 Mid-Year Budget Review. CEQA: Not a Project. (City Manager's Office)

Approved.

Staff directed to include information during the budget process outlining all vacant positions, by department, and the dollar amounts related to those positions.

3 STRATEGIC SUPPORT SERVICES

3.6 Acceptance of the 2004-2005 Mid-Year City Service Area Performance Report.

Recommendation: Acceptance of the 2004-2005 Mid-Year City Service Area Performance Report. (City Manager's Office)

Deferred to 2/15/05.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair

None.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

None.

4.3 Approval of a funding commitment for the Gish Apartments Project.

Recommendation: Adoption of a resolution approving a funding commitment of up to \$2,275,000 to First Community Housing, a California nonprofit public benefit corporation, or its affiliate or designee, for the development of the 35-unit Gish Apartments Project, located at 1410 North First Street, to be made available to extremely low- and very low-income households. CEQA: Mitigated Negative Declaration and addenda thereto, PDC02-014 and PDC04-055. Council District 3. (Housing)

Resolution No. 72525 adopted.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair

None.

5.2 Approval of fiscal actions for the Roosevelt Community Center - Multi-Service Project.

Recommendation: Adoption of the following appropriation ordinance amendments in the Parks and Recreation Bond Projects Fund:

(a) Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Roosevelt Community Center - Multi-Service Project by \$3,500,000.

(b) Decrease the Contingency Reserve by \$3,500,000.

CEQA: Mitigated Negative Declaration, PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services)

Ordinance No. 27351 adopted.

5 RECREATION & CULTURAL SERVICES

5.3 Approval to award a contract for the Penitencia Creek Reach 2 Development Project (Phase 1).

Recommendation:

- (a) Report on bids and award of contract for the Penitencia Creek Reach 2 Phase 1 Development Project to the lowest responsive bidder, O.C. Jones & Sons, Inc., for the base bid in the amount of \$830,925, and approval of a contingency in the amount of \$41,500.

Approved.

- (b) Adoption of the following appropriation ordinance amendments in the Park Trust Fund:
 - (1) Increase the Penitencia Creek Neighborhood Park Project in the amount of \$20,000.
 - (2) Decrease the Park Trust Fund Reserve: District 4 Parksites Acquisition by \$20,000.

Resolution No. 27352 adopted.

- (c) Adoption of a resolution approving the Penitencia Creek Reach 2 Phase 1 Project and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project.

CEQA: Mitigated Negative Declaration PP01-03-062. Council District 4. (Public Works)

Resolution No. 72526 adopted.

5.4 Approval to award a contract for the Cambrian Branch Library Project.

Recommendation:

- (a) Report on bids and award of contract for the Cambrian Branch Library Project to the low bidder, Bogard Construction, Inc., to include the base bid and Add Alternate Nos. 1, 2, 3 and 4, in the amount of \$8,997,478, and approval of a contingency in the amount of \$900,000.

Approved.

- (b) Adoption of a resolution approving the Cambrian Branch Library Project and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring And Reporting Program for the project.

CEQA: Mitigated Negative Declaration, PP04-05-168. Council District 9. (Public Works/Library)

Resolution No. 72527 adopted.

6 TRANSPORTATION SERVICES

- 6.1 Report of the Building Better Transportation Committee**
Council Member Campos, Chair
None.

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

- 8.1 Approval of Contract Change Orders for the Airport.**

Recommendation:

- (a) Approval of Contract Change Order No. 12 for the Norman Y. Mineta San José International Airport-Cargo Ramp Security and Taxiway Improvements Project in the credit amount of (\$219,774.24) for a total contract amount of \$9,693,638.48. CEQA: Resolution Nos. 67380 and 71451, PP 05-013.
Approved.
- (b) Approval of Contract Change Order No. 30 for the Norman Y. Mineta San José International Airport-Skyport Drive Grade Separation Project in the credit amount of (\$78,458.03) for a total contract amount of \$10,512,314.92. CEQA: Resolution Nos. 67380 and 71451, PP 05-013. (Public Works/Airport)
Approved.

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Closed Session Report**
None.

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9580	S/S of Fleming Ave. approx. 490' s/e of Story Rd.	5	Loera Development	5 lots/ 5 units	SFD	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9684	S/E corner of 12 th St. & Keyes St.	3	Roem Developers	4 lots	Multi- Family/ Commercial

- **Open Forum—**

- 1) **Bob Jaffe, Senior Senator of the California Senior Legislature, urged support for the Legislation program.**
- 2) **Ross Signorino expressed personal religious anecdotes.**

- **Adjournment**

The Council of the City of San José adjourned at 3:04 p.m. in memory of Michael Grubbs, Government Relations, SBC, who passed away on January 26, 2005.